

ADVANCE DIRECTIVES

Advance directives are a way to make choices about healthcare treatments and procedures when you cannot speak for yourself. The following contains information about living wills and power of attorney for health care, as well as forms to use if you decide to write down your decisions about health care choices.

Patients have a right to make decisions about their health; they have a right to say “Yes” or “No” to any medical treatment. Under the “Rights of the Terminally Ill Act,” adults may make choices about accepting treatments, stopping treatments or not beginning treatment. Advance directives are used to inform your doctor and others involved in your care about your wishes when you are not able to tell the medical staff yourself. It is also a way to name another person or persons who could make medical decisions for you if you cannot make them yourself. Because it is very important, you should talk about your wishes with your doctor and with people who care about you, usually your family.

What is an advance directive?

An advance directive is a written statement that tells of your wishes about medical treatment and/or names of another person who could make those decisions for you if you are not able to speak for yourself. Individuals who are 19 years old or older can write it. There are two parts to advance directives:

1. Living Will
2. Power of Attorney for Health Care

What is a living will?

A living will is a document that tells the doctor or other medical staff about your wishes for life-sustaining treatment, including artificially administered nutrition and hydration, when you are in a terminal condition or in a persistent vegetative state. A terminal condition is one that is not curable and not able to be reversed. It will likely cause death in a relatively short time; medical treatment will prolong the dying process. A persistent vegetative state is a state of unconsciousness or coma. It is a condition caused by illness or injury in which the person is unaware of his/her surroundings and doctors believe that the person will not recover. In Nebraska, a living will cannot take effect if a woman is pregnant and it is probable that the child will develop to a point of live birth.

A living will can be specific about certain types of treatments or procedures. An individual may want to make decisions about cardiopulmonary resuscitation (CPR), ventilator care, feeding tubes, medications, organ donation, or any other type of treatment.

What is the difference between a living will and a will that deals with property?

A “living will” deals with health care decisions only while a “will” or trust gives directions about how you want to handle your financial affairs after your death. A “living will” takes effect while you are still living; it is not necessary to consult a lawyer to write a living will. A will that deals with property takes effect after you die; an attorney will usually need to help you with your “will” that deals with property.

What is a power of attorney for health care?

A power of attorney for health care names another person or persons who have the authority to make medical decisions if you are terminally ill and cannot speak for yourself or are in a persistent vegetative state. A person may give someone else the legal authority to withhold or stop medical treatments if the purpose of those treatments is to prolong life, when he/she names power of attorney for health care. If you want your power of attorney to have authority to withdraw or withhold treatment, you must say so when you write your advance directive. This does not prevent receiving medication to relieve pain.

Only adults can be named as a health care power of attorney for someone. In addition, the following CANNOT act as your health care power of attorney:

- Your attending physician.
- An employee of the attending physician who is unrelated to you by blood, marriage or adoption.
- A person who is not related to you by blood, marriage or adoption who is an owner, operator or employee of a health care provider in whose facility you are living (e.g. a hospital or nursing home).
- A person unrelated to you by blood, marriage or adoption who is serving as an attorney-in-fact for ten or more people.

How do I write an advance directive?

There are sample forms for writing advance directives in this booklet. It is helpful to read this booklet and the forms carefully before writing anything. Talk with your family and with your physician about your wishes, beliefs and values. Complete the forms according to the instructions. It is important to sign the directive in the presence of two witnesses OR a notary public.

Witnesses should be people who know you but are not related to you by blood, marriage or adoption. People who cannot sign as a witness are:

- Your spouse, parent, child, grandchild, sibling, heir.
- Your physician or power of attorney.
- An employee or administrator of your health or life insurance company.
- Anyone who may inherit a portion of your estate.

How much does it cost to write advance directives?

There is no cost for writing advance directives. It is not necessary to write them with the help of an attorney. If you wish to speak with an attorney, however, about advance directives, there will be a cost.

When do advance directives take effect?

Advance directives are used only when you cannot make treatment decisions yourself. Otherwise, your physician or medical staff will ask you whether or not you wish to accept or refuse any treatments or procedures. Advance directives may take effect if you are in a terminal state that is likely to cause death or if you are in a persistent vegetative state or coma.

Who needs a copy of my advance directives?

It is a good idea to keep a copy of your advance directives handy; healthcare facilities and offices may ask for a copy each time you are admitted. It is also a good idea to give a copy to your family doctor and to people close to you such as family members or friends. It is important that you notify the person you are naming as a power of attorney for health care that you have selected him/her. Some people carry a small card in their wallets or purses that indicates where your advance directive is located and who to contact.

PLEASE NOTE: HOSPITALS DO NOT ROUTINELY KEEP ADVANCE DIRECTIVES ON FILE. DO NOT ASSUME YOUR MOST CURRENT ADVANCE DIRECTIVES IS AVAILABLE AT YOUR HOSPITAL.

What happens if I don't have advance directives?

No matter whether or not you have advance directives, the medical staff will take care of your needs. They will provide any type of care possible that will provide comfort according to your wishes. For example, they will provide medication for pain and normal daily cares such as bathing, feeding, etc. When medical decisions must be made and you have no advance directives, the medical staff will do their best to contact people close to you to determine what types of cares you would or would not want to have done. The hospital has an ethics committee that will meet with your family, physicians and others involved in your care to help determine what your wishes would be if you have expressed them.

Can I change my advance directive?

It is possible for you to change your advance directives at any time. You may change your mind about certain types of cares or may change the person you have appointed to make decisions for you. If you make such changes, destroy the previous document and replace it with the new one.

What is the difference between a living will and a power of attorney for health care?

Both the living will and the power of attorney for health care take effect when you are in a terminal or persistent vegetative state. The living will usually tells the physician what types of cares you do not want. A power of attorney for health care may make medical decisions for you according to your wishes and values when you are in a terminal or persistent vegetative state. The power of attorney for health care can visit with the physician and other medical staff to get information about your condition, options for care and any other considerations before he/she makes a decision. It is best to tell your power of attorney about your wishes regarding specific treatments so he/she can make the decisions you would want.

Will other places honor my advance directives?

Any healthcare facility in Nebraska will honor your Nebraska directives. Other states may have different laws regarding advance directives so you may want to sign a directive in another state if you plan to spend a great deal of time in another state.

Name: _____

Date of birth: _____

NEBRASKA LIVING WILL DECLARATION

If I should lapse into a persistent vegetative state or have an incurable and irreversible condition that, without the administration of life-sustaining treatment will, in the opinion of my attending physician, cause my death within a relatively short time and I am no longer able to make decisions regarding my medical treatment, I direct my attending physician, pursuant to the Nebraska Rights of the Terminally Ill Act, to withhold or withdraw life-sustaining treatment (including artificially administered nutrition and hydration) that is not necessary for my comfort or to alleviate pain.

Other instructions for specific treatments, procedures, etc.:

Signed this _____ day of _____, _____

Signature: _____

Address: _____

State of Nebraska

County of _____

On this _____ of _____, 20____ before me _____,

a notary public, personally came _____, personally known to be the identical person whose name is affixed to the above document, and I declare that he or she acknowledges the execution of the same to be his or her voluntary act and deed and that I am not the attorney-in-fact or successor attorney-in-fact designated by this power of attorney for health care.

Witness my hand and notarial seal at _____ (city) in such county the day and year last above mentioned.

Notary Public

Name: _____
Date of birth: _____

NEBRASKA POWER OF ATTORNEY FOR HEALTH CARE

I appoint _____, whose address is _____ and whose telephone number is _____ as my attorney-in-fact for health care.

In the event that the above cannot serve, I appoint _____, whose address is _____ and whose telephone number is _____ as my successor attorney-in-fact for health care.

I direct that my power of attorney for health care comply with the following instructions or limitations:

I direct that my power of attorney for health care comply with the following instructions on life-sustaining treatment: (optional)

I direct that my power of attorney for health care comply with the following instructions on artificially administered nutrition and hydration: (optional)

I have read this power of attorney for health care. I understand that it allows another person to make life and death decisions for me if I am incapable of making them due to a terminal condition or a persistent vegetative state. I understand that I may change or revoke this power of attorney for health care at any time.

Signature of person making the designation

Printed name

Social Security Number

Date

Name: _____

Date of birth: _____

DECLARATION OF WITNESSES

The declarant voluntarily signed this writing in my presence.

Witness: _____

Address: _____

Witness: _____

Address: _____

**-OR-
NOTARY**

State of Nebraska

County of _____

On this _____ of _____, 20____ before me _____,

a notary public, personally came _____, personally known to be the identical person whose name is affixed to the above document, and I declare that he or she acknowledges the execution of the same to be his or her voluntary act and deed and that I am not the attorney-in-fact or successor attorney-in-fact designated by this power of attorney for health care.

Witness my hand and notarial seal at _____ (city) in such county the day and year last above mentioned.

Notary Public